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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2700 OF 2005
IN
SUIT NO.2467 OF 2005

Rishikesh K. Sharma)..Plaintiff

Versus

Krishna Mishra and others)..Defendants

Mr.Bharat Vaishnawa i/b.M/s.Bharat Vaishnawa & Co. for the Plaintiff.

Mr.R.I. Moray with Mr.R.S. Mishra for Defendant No.1.

Ms.Lopa Munim i/b.Mr.Nagesh Mishra for Defendant No.2.

Mr.Sunil Chaturvedi i/b.S.C. Chaturvedi & Co. for Defendant No.4.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 27TH APRIL 2006

P.C.:

. By consent, Notice of Motion heard finally.

2. The Plaintiff claims that there is infringement of his copyright in respect of his original story based on the life of Defendant No.2. According to the Plaintiff, he had met Defendant No.2 when she was imprisoned had obtained her consent for making a film depicting her life. The Plaintiff claims that based on the information obtained by him through interviews of the members of the family of Defendant No.2 and other

sources, he had used his creative abilities and written a story on her life which he had registered with the Film Writers Association on 29th November 2002. He amended that story and registered the amendment on 21st January 2003. The Plaintiff also claims that an Agreement was executed between himself and Defendant No.2 on 25th February 2004 under which she agreed that her life story could be exclusively used by the Plaintiff and nobody else for the making of a film. According to the Plaintiff, Defendant No.2 accepted Rs.51,000/- as the token money for the same. This "Agreement" is annexed to the Plaint at Exhibit "E". The Suit has been filed only for an injunction against the Defendants from releasing a film entitled "Wounded". The Plaintiff claims that he owns the copyright of the story/script "Chambal Ki Seema/Seema Bani Dakait".

2. It is submitted on behalf of the Plaintiff that the documents annexed to the Plaint and story written by the Plaintiff which has been registered with the Film Writers Association apparently indicate that the Defendants have infringed the copyright in the story "Chambal Ki Seema/Seema Bani Dakait". It is submitted that once a story is written and registered with the Film Writers Association, no other person can register the story based on same topic. Therefore, if at all Defendant No.1 has registered his story with the Film

Writers Association in July 2003, it was subsequent to the registration of the Plaintiff's story.

3. Per contra, Mr.Moray for Defendant No.1 submits that this Court has no jurisdiction to grant any reliefs since no monetary reliefs are claimed but only an injunction. The Suit which was already filed before the City Civil Court for the same reliefs, it appears, has been subsequently withdrawn. He then points out that under Section 16 of the Copyright Act, no person would be entitled to the copy right in any work unless it is in accordance with the provisions of that Act. He further points out that the Agreement on which the Plaintiff's case is based dated 25th February 2004 cannot be construed as an Agreement since it is not registered. According to the Plaintiff, this document is notarised. However, the stamp affixed on it are not notarial stamps. He, therefore, disputes this Agreement itself and submits that unless the same is proved, it cannot be relied upon. The Notary has informed the Defendant No.2 by a letter dated 30th September 2005 which is annexed to the reply at Exhibit B-1 to the reply of Defendant No.2 that it does not contain either his seal or his signature. In these circumstances, he submits that the Agreement cannot be relied upon. Furthermore, he points out the Byelaws of the Film Writers Association which specifically stipulate under

byelaw 3(c) that the registration of a written work with the Association would not be construed "copyright registration".

4. The learned Counsel appearing for Defendant No.2 essentially supports the submissions made on behalf of Defendant No.1. She adds that the Plaintiff at no point of time met Defendant No.2 nor had Defendant No.2 affixed her signature to the so called Agreement dated 25th February 2004, Exhibit "E" to the Plaint. She further submits by relying on the judgment in the case of *R.G. Anand* vs. *M/s.Delux Films and others*, **(1978) 4 SCC 118**, that the copyright cannot be said to be infringed as the life story of Defendant No.2 was published in both the print and the electronic media and was available for public knowledge. The Plaintiff has based his story "Chambal Ki Seema/Seema Bani Dakait" on the basis of the newspaper reports. There is no creative writing at all and hence there cannot be any infringement of the Plaintiff’s copyright.

5. In my view, the ad-interim injunction granted requires to be vacated. Firstly, the Agreement on which the Plaintiff claims that Defendant No.2 had sold him the copyright of her life story, does not seem to be valid. Furthermore, prima facie, the life story of a person, which could form the basis of a story, cannot

give any copyright to the author. If at all a writer has a copyright, it will be in the story that he creatively writes in respect of the life of a person. Apart from this, there is no registration of the Plaintiff's copyright in his story. The story which the Plaintiff has written appears to be merely a reproduction of the life story of Defendant No.2. In such circumstances, I see no reason to grant any interim relief and, therefore, the ad-interim relief granted earlier vacated.

6. Motion dismissed.

7. Ad-interim orders passed earlier to continue for a period of two weeks from today.

8. Parties to act on an authenticated copy of this order.